

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Peter Bodine

Application No.: 10/666,851

Confirmation No.: 6790

Filed: September 19, 2003

Art Unit: 1646

For: PHARMACEUTICAL COMPOSITIONS AND
METHODS OF USING SECRETED FRIZZLED
RELATED PROTEIN

Examiner: E. Kemmerer

**PETITION UNDER 37 C.F.R. § 1.78(a)(3) FOR UNINTENTIONALLY DELAYED CLAIM
UNDER 35 U.S.C. § 120 FOR THE BENEFIT OF PRIOR-FILED APPLICATIONS**

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby petitions the Commissioner pursuant to 37 C.F.R. § 1.78(a)(3) to accept an unintentionally delayed claim for benefit of priority in this application.

This application is a continuation-in-part of U.S. Patent Application Serial No. 10/169,545, filed May 31, 2002 (which was and is co-pending with the present application), which is a National Stage Application under U.S.C. §371 of PCT International Application No. PCT/US2000/025035, filed September 13, 2000, which claims priority of U.S. Patent Application No. 09/394,832, filed September 13, 1999. The subject application also claims priority under 35 U.S.C. § 119(e) from U.S. Provisional Patent Application Serial No. 60/412,379, filed September 19, 2002. The Utility Patent Application Transmittal, form PTO/SB/05, filed with the present application expressly states that the present application is a continuation-in-part of Serial No. 10/169,545. However, although

the first paragraph of specification of the present application and the Application Data Sheet as filed refer to Application Nos. 10/169,545 and 60/412,379, the specification and Application Data Sheet inadvertently and unknown to Applicant or his attorneys failed to refer to Application Nos. PCT/US2000/025035 and 09/394,832.

Applicant therefore petitions the Commissioner to accept his claim for the benefit of Application Nos. PCT/US2000/025035 and 09/394,832. The entire delay between the date the claim was due under 37 CFR § 1.78(a)(2) and the date of this petition was unintentional.

This petition is accompanied by the following:

1. Surcharge under 37 C.F.R. § 1.17(t) in the amount of \$1370.00; and
2. The reference required by 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2), in the form of an amendment amending the first paragraph of the specification following the title to include reference to the prior-filed Application Nos. PCT/US2000/025035 and 09/394,832, as well as a Supplemental Application Data Sheet.

Applicant submits that all the requirements of 37 C.F.R. § 1.78(a)(3) are satisfied, and the Commissioner is respectfully requested to grant this Petition.

Dated: April 20, 2006

Respectfully submitted,

By  *Sarah N. Goldin*
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